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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 UNITED STATES OF AMERICA,)
10 Plaintiff,) 3:08-cr-00082-LRH-VPC
11 vs.) ORDER
12 ROBERT MARTIN HENNESSY,)
13 Defendant.)
14 _____)

15 Before the court is defendant Robert Martin Hennessy's Motion to Have Evidence
16 Delivered to Defense Laboratory for Testing (#88), Government's opposition (#89) and
17 defendant's reply (#93). The court has reviewed the rough notes of the entry of the defendant's
18 guilty pleas in this action on May 18, 2009, and it is clear that it was the contemplation of all
19 parties that the quantity of methamphetamine would be subject to testing by a defense expert.
20 The issue of custody of the contraband was not presented to the court. Because the defendant's
21 guilty plea and the court's finding of guilt are not binding at this time, it is conceivable that the
22 defendant's plea could be rejected by the court or possibly withdrawn and the Government would
23 be required to try this case. It is, therefore, reasonable for the Government to retain custody of
24 the contraband substance pending final resolution of this case.

25 Good cause appearing, defendant's motion (#88) is denied. The court is not inclined to
26 order the cost of testing to be paid out of Department of Justice funds and, therefore, the court
27 will authorize up to Two Thousand Dollars (\$2,000.00) in CJA funds for purposes of the
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1 proposed testing by the identified expert in defendant's motion.

2 IT IS SO ORDERED.

3 DATED this 13th day of October, 2009.

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LARRY R. HICKS
7 UNITED STATES DISTRICT JUDGE
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